

# DRAFT

## MINUTES OF THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY

**TUESDAY, FEBRUARY 11, 2020  
6:00 P.M.**

The Town Council of the Town of Chino Valley met for a Regular Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, February 11, 2020.

Present: Mayor Darryl Croft; Vice-Mayor Jack Miller; Councilmember Mike Best; Councilmember Cloyce Kelly; Councilmember Corey Mendoza; Councilmember Annie Perkins; Councilmember Lon Turner

Staff Present: Town Manager Cecilia Grittmann; Town Attorney Andrew McGuire; Economic Development Project Manager Maggie Tidaback; Finance Director Joe Duffy; Human Resources Director Laura Kyriakakis; Public Works Director/Town Engineer Frank Marbury; Development Services Director Joshua Cook; Water Resources Consultant Mark Holmes; Police Officer Fernando Silva (Sergeant-At-Arms); Administrative Technician Kathy Frohock (videographer); Deputy Town Clerk Erin Deskins; Town Clerk Jami Lewis (recorder)

### 1) **CALL TO ORDER, PLEDGE OF ALLEGIANCE; ROLL CALL**

Mayor Croft called the meeting to order at 6:01 p.m. and led the Pledge of Allegiance.

### 2) **INTRODUCTIONS, PRESENTATIONS, AND PROCLAMATIONS**

### 3) **CALL TO THE PUBLIC**

*Call to the Public is an opportunity for the public to address the Council on any issue within the jurisdiction of the Council that is not on the agenda. Public comment is encouraged. Individuals are limited to speak for three (3) minutes. The total time for Call to the Public may be up to 30 minutes per meeting. Council action taken as a result of public comment will be limited to directing staff to study the matter, scheduling the matter for further consideration and decision at a later date, or responding to criticism.*

Donna Armstrong spoke about AARP offering free tax preparation at the Library. She also encouraged residents to complete the census form, as each person was worth \$2000 and it might result in Arizona gaining an additional congressional seat.

Randy Odum, Bright Star community resident, spoke about an ongoing issue for the last two years with vandalism in their park and the police being unable to assist due to it being private land. Also, people were dumping dirt, gravel, and cement materials inside and outside of the community, and telling residents that there were no laws against it. Town Code Enforcement could not find anything to prevent it.

Beverly Swanty, representing the Chino Valley Elks Club, spoke about the Elks donating

\$261,000 to the community in time and money over the last 15 years. Programs included clothes for a child, child transportation, dictionaries for third graders, food bank donations, the library reading program, blood drives, pancake breakfast for the vets, and many others.

#### 4) **RESPONSE TO THE PUBLIC**

*Response to the Public is an opportunity for the Mayor to inform the public about how Town officials addressed matters raised during Call to the Public at a previous meeting.*

- a) Questions and comments about the Brook Apartments property's history and concerns with the current planned development.

Development Services Director Cook reported that he would be addressing persistent questions and sometimes inaccurate information being spread about the property located off Road 2 North and south of a platted commercial subdivision.

*Current zoning, including the effect of an expired conditional use permit (CUP):* The Council had rezoned the property on August 2006 to a split zone SR-2/MR-1 zoning district. In November 2006 the property was divided into two separate parcels with their own zoning designation. The western parcel was zoned SR-2 and the current Brooks Apartment property was zoned MR-1. The designations had not changed. The Council granted a CUP for the MR-1 property to allow for an assisted living facility, which expired after ten years, but the expiration did not affect the underlying zoning of MR-1, which entitled the owner to develop it according to the list of uses found in the Town Unified Development Ordinance (UDO).

*Access to the Brook Apartments:* Access to the property was through Hawks Nest Trail, a platted street, even though the commercial subdivision to the North had not been developed. Streets in a commercial subdivision were built at the time of the platting or built later by the developer or the Town using the funds provided by the developer through bonding. In this case, neither the developer nor the Town had the need to construct the street. Regardless, Hawks Nest Trail provided ingress and egress for the MR-1 property and the Town would require Brooks Apartments to make the necessary improvements to complete Hawk Nest Trail including paved street, curb, gutter and sidewalk prior to allowing occupancy to the project.

*Claims made by property owners as to uses allowed on the property and proposed development:* The Town did not regulate the content of private websites like the one listing the future development of the Brooks Apartments. Although inaccurate and disingenuous, the claims did not change the existing MR-1 zoning of the property. Even though the Council voted 'no' on a Planned Area Development rezone of the property, the property was still subject to the MR-1 zone and was entitled through the zoning classification under UDO Section 3.13 to develop apartments. Based on the square footage of the property, the allowed density was 99.462 units.

The MR-1 property owners have submitted for a site plan review of a 96-unit apartment complex, and even though not required, they have decided to maintain an 80-foot setback as shown on the previously denied PAD proposal, even though per the MR-1 zoning, setbacks could be as small as 20 foot side and 10 foot rear. Site plan approvals were administrative and would not be reviewed by the Council.

*Claims that the fire department does not have apparatus to fight an apartment fire:* During the PAD review by Council, fire personnel stated that the appropriate apparatus was available to

satisfy all fire requirements up to and exceeding 35 feet in height, which was the proposed height of the apartments. The apparatus was located on Road 3 North next to the Police station, which was no more than a five-minute drive.

*Surrounding property owners rights:* A resident asked why was this happening. The simple answer was that property rights were a two-way street. The MR-1 property owners were exercising their right to develop their property according to the Town's adopted regulations. The UDO included carefully considered land use regulations adopted by the Town Council following extensive public hearings. The hearings were held and the required processes were followed to ensure all property owners, those seeking change and those affected by the requested change were afforded due process of the law as required by State and Federal Constitutions. The Council could not favor the rights of one property owner over another. Everyone should be afforded the same constitutional protections. When the MR-1 property owners requested change in zoning in 2006, all properties had the opportunity to be heard in favor of or opposing the change. The 2006 Council decided it was appropriate for the property to be rezoned to include the MR-1 zoning status much like the current Council did not think it appropriate to further modify the zoning with a PAD.

The Brook apartment owners were proceeding with development of the property according to the 2006 rezoning approval and the time to challenge the rezone request passed 14-years ago. If the Town were to deny a property owner request to develop property in a manner consistent with the adopted provisions of the UDO, the Town could face legal challenges under the Private Property Owners Protection Act, approved by Arizona voters in 2006.

Mr. Cook wanted to be perfectly clear that he was not related to nor have any connection to the Brook apartments developers or their management company. Sharing a common name did not create a relationship and it was disheartening to hear unfounded and untrue accusations at public meetings and to read such accusations in correspondence with the Council. All citizens were treated with fairness and respect and he would continue to do so through his tenure with the Town.

**b) Comments regarding lot splits, definition of subdivision, and property owners' rights.**

Development Services Director Joshua Cook reported that he would summarize his written response, but the full response was available to Mr. Roberts.

Mr. Roberts was incorrect in his claims that the Town's interpretation of "subdivision" was inconsistent with Arizona State Statute.

The State Statute and the Town's UDO definition of "Street" was nearly identical. The definition of subdivision was:

"Improved or unimproved land or lands divided for the purpose of financing, sale, or lease, whether immediate or future, into four or more lots, tracts, or parcels of land, or, if a new street is involved, any such property which is divided into two or more lots, tracts, or parcels of land, or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into more than two parts..." Or, in essence, those properties that were already part of an existing subdivision."

The law was clear that any division of land that involved a new "street" was a "subdivision". As a "street" included an "easement for public vehicular access," divisions of land into two or more parcels with an easement for public vehicular access, as were proposed in the denied lot

splits, were subdivisions. Subdivisions must comply with the Town's Subdivision Regulations.

There were also claims that the Town was interpreting these provisions and treating lot splits differently than other communities in the area and throughout the State. Staff contacted 15 surrounding communities to determine how those communities were addressing the same questions. The research indicates that Mr. Roberts was incorrect. Nine (9) communities responded:

#### Prescott Valley

- No exempt wells were approved. All land splits were required to extend water lines for service.
- Full subdivision process was required whenever a street (or easement used for public access) was created; no exceptions for two or more lots.
- Sewer extension required within 300 feet.
- Water extension was required for all subdivisions as part of their agreement with the State as part of the AMA. Must bring water certificates of available water supply.

#### Clarkdale

- Since 1986, property had only been allowed three splits, regardless of ownership change. Any future desired splits trigger the subdivision process automatically. Essentially, they track lot splits by parent parcel.
- Their subdivision process involved paving roads.

#### Wickenburg

- Any lot splits after that occurred after 1994 and that involved property under 2.5 acres were subject to subdivision regulations. They had six categories of subdivisions, with each one having different road standards.

#### Cottonwood

- Any new lot split with an easement created after 1979 required going through the subdivision process.
- All new lots were required to have frontage on a Town dedicated street.
- Newly created flag lots needed to have an average flagpole 30 feet in width and 60 feet of length. (They have had issues with flagpoles in the past and have other stipulations that typically eliminate using flagpoles.)
- Road Design was to City of Cottonwood Engineering Design Standards Manual (as amended) and City of Cottonwood Standard Details (as amended), Section 7 and on.

#### Prescott

- The City's application stated that cumulative creation of four or more parcels created by land splits shall be subject to subdivision plat review. Their Community Development Director confirmed that they track splits based on parent parcel and that their GIS is set up to facilitate this. Staff spoke with Ms. Stotler, the City's Planning and Community Development Director who stated that they did not see lot splits like Town experienced very often, if at all.

Staff's interpretation was in line with both Arizona Revised Statutes and existing code definitions and requirements. Further, jurisdictions within Arizona were not only enforcing the land splits according to the Arizona Statutes but also required a certain level of infrastructure

improvements for land splits that did not qualify as a subdivision.

- c) Comments regarding a problem with cats and lack of Town regulations.

Mayor Croft reported that a gentleman spoke about 22 cats in his area destroying his personal property and asked about any laws regarding that situation. There was no Town ordinance regarding cats. The Town's Animal Control facility had no space to keep them, and the Town had insufficient staff to care for them. The majority of cat problems in Chino Valley involved feral cats. The Town could offer the use of their TNR (Trap, Neuter, Release) program, a grant-funded program in which people may borrow a trap from the Town's Animal Control department, and upon the successful trap of a cat it would be neutered before being released. This should eliminate the spraying problem the citizen was experiencing with these cats.

**5) CURRENT EVENT SUMMARIES AND REPORTS**

*This item is for information only. The Mayor, any Councilmember, or Town Manager may present a brief summary or report of current events. If listed below, there may also be a presentation on information requested by the Mayor and Council and questions may be answered. No action will be taken.*

- a) Status reports by Mayor and Council regarding current events.

Vice-Mayor Miller reported on the 50th anniversary kick off barn dance on March 13 at the Del Rio School.

- b) Status report by Town Manager Cecilia Grittmann regarding Town accomplishments, and current or upcoming projects.

Town Manager Grittmann reported on the following:

- Assistant Community Services Director Cyndi Thomas had been nominated by the Prescott Area Leadership for Female of the Year.
- Deputy Town Clerk Erin Deskins received her certification as an election officer, which was formally presented by Secretary of State Katie Hobbs.
- February employee anniversaries.

**6) CONSENT AGENDA**

*All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.*

Mayor Croft reported that, at staff's request, item 6a would be postponed until the next meeting.

MOVED by Vice-Mayor Jack Miller, seconded by Councilmember Corey Mendoza to approve agenda items (b) and (c).

AYE: Mayor Darryl Croft, Vice-Mayor Jack Miller, Councilmember Mike Best, Councilmember Cloyce Kelly, Councilmember Corey Mendoza, Councilmember Annie Perkins, Councilmember Lon Turner

**7 - 0 PASSED - Unanimously**

- a) Consideration and possible action to accept the Comprehensive Annual Financial Report and the Annual Expenditure Limitation Report for the fiscal year ended June 30, 2019, as prepared by Henry & Horne, LLP, Certified Public Accountants. (Joe Duffy, Finance Director)
- b) Consideration and possible action to approve the January 14, 2020, regular meeting minutes. (Jami Lewis, Town Clerk)
- c) Consideration and possible action to approve the January 21, 2020, study session minutes. (Jami Lewis, Town Clerk)

**7) ACTION ITEMS**

*The Council may vote to recess the public meeting and hold an Executive Session on any item on this agenda pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation for legal advice with the Town Attorney. Executive sessions are not open to the public and no action may be taken in executive session.*

- a) Consideration and possible action to amend the Design-Build Contract to JEBCO Construction Companies, LLC for the Utility's shop building at Old Home Manor and Memory Park restrooms in the amount of \$876,171.00 for construction services. (Frank Marbury, Public Works Director/Town Engineer)

Recommended Action: Approve the amendment to the Design-Build Contract to JEBCO Construction Companies, LLC in the amount of \$876,171.00.

Frank Marbury reported that this was the second part of the contract for the design-build and to amend the contract for the construction phase.

Sergio Martinez, architect, presented the following:

Memory Park Restrooms

- The restrooms would have a brand-new building south of the existing building that would triple the current facility size. The building would be square with two colors of masonry and an asphalt pitched roof. Per a new law effective in January, the restrooms would need an adult changing station. The most cost-efficient way to handle that would be to fit it into a family restroom or unisex restroom instead of putting one in each of the men's and women's restroom.
- The one entrance could be fully secured with an automatic timer-controlled latch. Partitions between the stalls were solid masonry and non-destructible. The stall doors were hollow metal painted doors that could be painted if scratched or graffitied.
- The electric service that was being run in the restrooms was more than was needed to satisfy the needs of any extra events and services used at the site.
- The cost breakdown was \$247,140 without pre-engineering. There was an allowance included for a septic system, but more engineering was necessary before the proper system could be determined. The restroom would be completed in 14 weeks from the time of notice to proceed.

## Utility Shop

- The current cost without pre-engineering was \$590,480.
- An alternate option that would increase the cost was to add two 20 x 50 concrete aprons for \$14,375. They could also reduce the cost by eliminating one 25-foot bay. Waiting to a later date to develop the bay would cause the cost to triple.
- Other options to reduce the cost were: (i) Install non-insulated garage doors; (ii) Replace automatic garage doors with chain hoisted manual doors; (iii-iv) Substitute lighting and electrical gear for shop and restrooms; and (v) Change stainless steel restroom items to porcelain with a shorter life expectancy.
- The completion proposal was 26 weeks from the time of the notice to proceed. There was a six- to ten-week delay from the time the pre-engineered metal building was ordered to its arrival onsite.

The goal was to build the restrooms and utility shop simultaneously and build the facilities as fast as they could. He recommended accepting options (iii) and (iv), as the quality of the LED lighting would remain the same if Council chose option (iii) or (iv).

Mr. Martinez and Staff added that:

- *Fire requirements:* Fire alarms were needed, but no sprinkler system or water tank was needed, as the threshold was approximately 15,000 square feet.
- *Additional costs:* The aprons could be bid separately and some prep work could be done in-house to save money. The utility shop was not a public building, so paving and other work could happen at a later date, but there would need to be paving when the facility became public. Fence extensions may be necessary if roads were moved to access the shop building. The restroom would need further work on connecting the old and new buildings and to ensure that a disabled accessible route was available. Miscellaneous landscaping would be necessary.
- *HVAC:* HVAC systems included ventilation and heaters to prevent pipe freezing in the restrooms. In the utility shop, the offices had air conditioning and heating and the shop had ventilation and heating only.
- *Funding:* The restrooms was budgeted out of the general fund with \$100,000 coming from contingency funding. The utility shop building was split 50/50 between sewer and water. The overage would also be split between the two enterprise funds.
- Staff asked Council to determine what, if any, options to choose since the price of the project was higher than expected.

Council discussion:

- The concrete price was high, so the aprons could be eliminated and bid out separately by the Town. They preferred that options (ii), (iii), and (iv) be selected and option (v) should include stainless steel for the public and porcelain for the Town.
- They believed the height of the building was necessary because of the equipment. If manual doors were used, the building could be 18 feet tall but the architect did not think the savings would be substantial.

Attorney McGuire stated a motion could be made to include each individual option and the price.

MOVED by Vice-Mayor Jack Miller, seconded by Councilmember Mike Best to approve the amendment to the Design-Build Contract to JEBCO Construction Companies, LLC in the amount of \$876,171, not including the concrete aprons; option (ii) the garage door openers at \$5,985; option (iii) on the electrical gear and lighting on Utilities building for \$7,400; and option (iv) on electrical gear and lighting on restroom building for \$5,100.

AYE: Mayor Darryl Croft, Vice-Mayor Jack Miller, Councilmember Mike Best,  
Councilmember Cloyce Kelly, Councilmember Corey Mendoza, Councilmember  
Annie Perkins, Councilmember Lon Turner

**7 - 0 PASSED - Unanimously**

**8) EXECUTIVE SESSION**

*Council may vote to recess the Regular Meeting and hold an executive session, which will not be open to the public, for the following purposes.*

MOVED by Vice-Mayor Jack Miller, seconded by Councilmember Cloyce Kelly to adjourn into executive session at 6:53 p.m.

AYE: Mayor Darryl Croft, Vice-Mayor Jack Miller, Councilmember Mike Best,  
Councilmember Cloyce Kelly, Councilmember Corey Mendoza, Councilmember  
Annie Perkins, Councilmember Lon Turner

**7 - 0 PASSED - Unanimously**

- a) An executive session pursuant to A.R.S. & 38-431.03(A)(1) for discussion or consideration of employment, assignment, appointment, or salary of Town Manager, Cecilia Grittman. (Mayor and Council)
- b) An executive session pursuant to A.R.S. § 38-431.03(A)(4) for discussion or consultation with the Town attorney regarding a potential intergovernmental agreement with the City of Prescott relating to water service. (Cecilia Grittman, Town Manager)
- c) An executive Session pursuant to A.R.S. § 38-431.03(A)(3) for the purpose of discussion or consultation and legal advice with the Town Attorney regarding a pending notice of claim. (Cecilia Grittman, Town Manager)

**9) ACTION ITEMS RESUMED**

*After the Executive Session, Council will reconvene the Regular Meeting.*

Mayor Croft reconvened the regular meeting at 7:39 p.m.

- a) Discussion and possible action regarding Town Manager succession planning.

Recommended Action: Direction to Staff per Council discussion.

**10) ADJOURNMENT**



MOVED by Councilmember Lon Turner, seconded by Councilmember Cloyce Kelly to adjourn the meeting at 7:39 p.m.

AYE: Mayor Darryl Croft, Vice-Mayor Jack Miller, Councilmember Mike Best, Councilmember Cloyce Kelly, Councilmember Corey Mendoza, Councilmember Annie Perkins, Councilmember Lon Turner

**7 - 0 PASSED - Unanimously**

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Darryl L. Croft, Mayor

ATTEST:

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Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Town Council of the Town of Chino Valley, Arizona held on the 11th day of February, 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 25th day of February, 2020.

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Jami C. Lewis, Town Clerk